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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

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Office Action Summary	Application No. 10/575,044	Applicant(s) DOLIVO ET AL.
	Examiner CHRYSTINA ZELASKIEWICZ	Art Unit 3621

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If no period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED. (35 U.S.C. § 133).

Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) Responsive to communication(s) filed on 07 March 2007.

2a) This action is FINAL. 2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) Claim(s) 1-70 is/are pending in the application.

4a) Of the above claim(s) 50-70 is/are withdrawn from consideration.

5) Claim(s) _____ is/are allowed.

6) Claim(s) 1-49 is/are rejected.

7) Claim(s) 45 is/are objected to.

8) Claim(s) 1-70 are subject to restriction and/or election requirement.

Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All b) Some * c) None of:

1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. _____.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) Notice of References Cited (PTO-892)

2) Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) Information Disclosure Statement(s) (PTO/0256/06)
Paper No(s)/Mail Date _____

4) Interview Summary (PTO-413)
Paper No(s)/Mail Date _____

5) Notice of Informal Patent Application

6) Other: _____

DETAILED ACTION

Election/Restrictions

1. Restriction is required under 35 U.S.C. 121 and 372.
2. This application contains the following inventions or groups of inventions which are not so linked as to form a single general inventive concept under PCT Rule 13.1.
 3. In accordance with 37 CFR 1.499, applicant is required, in reply to this action, to elect a single invention to which the claims must be restricted.
 - a. Group I, claim(s) 1-49, drawn to verification of a log of an electronic seal.
 - b. Group II, claim(s) 50-70, drawn to location detection using a global positioning module.
 4. The inventions listed as Groups I and II do not relate to a single general inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, they lack the same or corresponding special technical features for the following reasons. Specifically, Group I requires verifying the log of an electronic seal, which Group II does not. Group II requires location detection using a global positioning module, which is missing from Group I.
 5. During a telephone conversation with Vazken Alexanian on July 8, 2009 a provisional election was made without traverse to prosecute the invention of Group I, claims 1-49. Affirmation of this election must be made by applicant in replying to this Office action. Claims 50-70 are withdrawn from further consideration by the examiner, 37 C.F.R. § 1.142(b), as being drawn to a non-elected invention.
 6. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 C.F.R. § 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 C.F.R. § 1.48(b) and by the fee required under 37 C.F.R. § 1.17(i).
 7. The examiner has required restriction between product and process claims. Where applicant elects claims directed to the product, and the product claims are subsequently found allowable, withdrawn process claims that depend from or otherwise require all the limitations of the allowable product claim will

be considered for rejoinder. All claims directed to a nonelected process invention must require all the limitations of an allowable product claim for that process invention to be rejoined.

8. In the event of rejoinder, the requirement for restriction between the product claims and the rejoined process claims will be withdrawn, and the rejoined process claims will be fully examined for patentability in accordance with 37 C.F.R. § 1.104. Thus, to be allowable, the rejoined claims must meet all criteria for patentability including the requirements of 35 U.S.C. §§ 101, 102, 103 and 112. Until all claims to the elected product are found allowable, an otherwise proper restriction requirement between product claims and process claims may be maintained. Withdrawn process claims that are not commensurate in scope with an allowable product claim will not be rejoined. See MPEP § 821.04(b). Additionally, in order to retain the right to rejoinder in accordance with the above policy, applicant is advised that the process claims should be amended during prosecution to require the limitations of the product claims. **Failure to do so may result in a loss of the right to rejoinder.** Further, note that the prohibition against double patenting rejections of 35 U.S.C. §121 does not apply where the restriction requirement is withdrawn by the examiner before the patent issues. See MPEP § 804.01.

Acknowledgements

9. This action is in reply to the application filed on March 7, 2007.
10. Claims 1-70 are pending.
11. Claims 50-70 have been withdrawn.
12. Claims 1-49 have been examined.

Priority

13. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

Specification

14. The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 C.F.R. §1.75(d)(1), MPEP §608.01(o), and MPEP §2181 IV and its discussion of 37 C.F.R. §1.75(d)(1). Appropriate correction of the following is required:

- c. "means for performing" in claim 26;
- d. "means for performing" in claim 46.

Claim Objections

15. Claim 45 is objected to because claim 45 is a method claim dependent upon claim 30, an apparatus claim. Appropriate correction is required.

Claim Rejections - 35 USC § 101

16. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

17. Claims 1-49 are rejected under 35 U.S.C. §101 because the claimed invention is directed to non-statutory subject matter.

18. Based on Supreme Court precedent¹ and recent Federal Circuit decisions, a § 101 patent eligible process must (1) be tied to a particular machine (or apparatus); or (2) transform a particular article to a different state or thing. See *In re Bilski*, 545 F.3d 943, 88 USPQ2d 1385 (Fed. Cir. 2008) (en banc). This is called the Machine-or-Transformation Test.

- e. To meet prong (1), the method steps should positively recite the machine to which it is tied. Alternatively, or to meet prong (2), the method steps should positively recite the material that is being changed to a different state, or positively recite the subject matter that is being

transformed. For example, a method claim that would *not* qualify as a patent eligible process because it fails both prongs of the Machine-or-Transformation Test would be a claim that recites purely mental steps.

f. In this particular case, the process claims 1-26 and 29 fail prong (1) because the method steps of documenting and transfers are not tied to a specific machine since the method step could be performed by a human being. Finally, Examiner notes that the claims fail prong (2) because the method steps do not transform the underlying subject matter to a different state or thing.

19. Under the broadest reasonable interpretation standard, claims 27-28 and 30-49 recite a computer program only. "Computer programs claimed as computer listings *per se*, *i.e.*, the descriptions or expressions of the programs, are not physical 'things.' They are neither computer components nor statutory processes, as they are not 'acts' being performed." MPEP §2106.01 I. Because the claims recite only abstractions that are neither "things" nor "acts," the claims are not within one of the four statutory classes of invention. Because the claims are not within one of the four statutory classes of invention, the claims are rejected under 35 U.S.C. §101.

g. In this particular case, claim 27 comprises an interface and a control unit. Both an interface and control unit may be interpreted as software alone. See "claim interpretation" below.

h. In this particular case, claim 30 comprises an interface, a log, and a control unit, all of which may be interpreted as software alone. See "claim interpretation" below.

Claim Rejections - 35 USC § 112, 2nd paragraph

20. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

¹ *Diamond v. Diehr*, 450 U.S. 175, 184 (1981); *Parker v. Flook*, 437 U.S. 584, 588 n.9 (1978); *Gottschalk v. Benson*, 409 U.S. 63, 70 (1972); *Cochrane v. Deener*, 94 U.S. 780, 787-88 (1876).

21. Claims 26 and 46 are rejected under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.
22. The following claim elements are means plus function limitations that invoke 35 U.S.C. §112, sixth paragraph:
 - i. "means for performing" in claim 26;
 - j. "means for performing" in claim 46.
23. However, the written description fails to disclose the corresponding structure, material, or acts for the claimed function. Applicant is required to:
 - k. Amend the claim so that the claim limitation will no longer be a means (or step) plus function limitation under 35 U.S.C. 112, sixth paragraph; or
 - l. Amend the written description of the specification such that it expressly recites what structure, material, or acts perform the claimed function without introducing any new matter (35 U.S.C. 132(a)).
24. If Applicant is of the opinion that the written description of the specification already implicitly or inherently discloses the corresponding structure, material, or acts so that one of ordinary skill in the art would recognize what structure, material, or acts perform the claimed function, Applicant is required to clarify the record by amending the written description of the specification such that it expressly recites the corresponding structure, material, or acts for performing the claimed function and clearly links or associates the structure, material, or acts to the claimed function, without introducing any new matter (35 U.S.C. 132(a)).
25. Examiner finds that because the claims are indefinite under 35 U.S.C. §112, 2nd paragraph, it is impossible to properly construe claim scope at this time. However, in accordance with MPEP §2173.06 and the USPTO's policy of trying to advance prosecution by providing art rejections even though these claims are indefinite, the claims are construed and the prior art is applied as much as practically possible.

Claim Rejections - 35 USC § 103

26. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

27. Claims 1-49 are rejected under 35 U.S.C. §103(a) as being unpatentable over Girault et al. (US 5,768,379) in view of Arnold (US 6,456,716).

Claims 1, 26, 27, 45, 46

28. Girault discloses the following limitations:

- m. an interface (unit to be guarded) for transferring data to the electronic seal (electronic lock) (abstract, C2 L8 – C3 L20);
- n. a control unit (portable storage device) designed for
- o. digitally signing (signature) the container control certificate on behalf of the associated entity (abstract, C2 L8 – C3 L20);
- p. submitting the digitally signed container control certificate to the interface (abstract, C2 L8 – C3 L20).

29. Arnold discloses the following limitations:

- q. assembling an electronic container control certificate (certificate), the container control certificate comprising a cryptographic key (public key) associated to an entity different (element A) from the entity the computing unit is associated to (element B) (C3 L8-35).

30. It would have been obvious to one of ordinary skill in the art at the time of the invention to combine Girault with Arnold because 1) a need exists for a system that can provide secured access

(Girault C1 L14-65); and 2) a need exists for a secure, but relatively inexpensive cryptographic system (Arnold C1 L15 – C3 L61). Assembling a control certificate will help ensure secured access.

Claims 30, 47, 48

31. Girault discloses the following limitations:

- r. an interface accessible for entities participating in the transportation chain (abstract, C2 L8 – C3 L20);
- s. a log (portable storage device) for recording data (abstract, C2 L8 – C3 L20).

32. Arnold discloses the following limitations:

- t. a control unit for verifying data received via said interface, the control unit being designed for decrypting a digitally signed electronic container control certificate (certificate) received via said interface, the decryption process using decrypt information (public key) stored in the log which decrypt information being associated to the transmitting (C3 L8-35).
- 33. It would have been obvious to one of ordinary skill in the art at the time of the invention to combine Girault with Arnold because 1) a need exists for a system that can provide secured access (Girault C1 L14-65); and 2) a need exists for a secure, but relatively inexpensive cryptographic system (Arnold C1 L15 – C3 L61). A control unit to decrypt a control certificate will help ensure secured access.

Claims 2, 31

34. Girault, in view of Arnold, discloses the limitations above. Furthermore, Girault discloses the following limitations:

- u. storing the container control certificate in a log (portable storage device) of the electronic seal (abstract, C2 L8 – C3 L20).

Claim 3

35. Girault, in view of Arnold, discloses the limitations above. Furthermore, Girault discloses the following limitations:

- v. verifying the signed container control certificate (signature) by a corresponding function (production algorithm) implemented in the electronic seal (abstract, C2 L8 – C3 L67).

Claim 4

36. Girault, in view of Arnold, discloses the limitations above. Furthermore, Girault discloses the following limitations:

- w. verifying the digital signature of the container control certificate by applying decrypt information (data element) stored in the log of the electronic seal and delivered to the log by a previous entity of the transportation chain (abstract, C2 L8 – C3 L67).

Claims 5, 32

37. Girault, in view of Arnold, discloses the limitations above. Furthermore, Girault discloses the following limitations:

- x. the verification is considered to be failed (signature computed is not equal to signature read) if the signed container control certificate cannot be decrypted with the decrypt information stored in the log (verification algorithm) (abstract, C2 L8 – C4 L40).

Claim 6

38. Girault, in view of Arnold, discloses the limitations above. Furthermore, Girault discloses the following limitations:

- y. a status of a container lock is subject to the result of the signature verification process (verification of the signature) (abstract, C2 L8 – C3 L20).

Claims 7, 34

39. Girault, in view of Arnold, discloses the limitations above. Furthermore, Arnold discloses the following limitations:

z. the electronic seal issues a warning (error condition) if the verification of the signature fails (C13 L55-65).

40. It would have been obvious to one of ordinary skill in the art at the time of the invention to combine Girault with Arnold because 1) a need exists for a system that can provide secured access (Girault C1 L14-65); and 2) a need exists for a secure, but relatively inexpensive cryptographic system (Arnold C1 L15 – C3 L61). A seal to issue a warning if verification fails will help ensure secured access.

Claims 8, 35

41. Girault, in view of Arnold, discloses the limitations above. Furthermore, Girault discloses the following limitations:

aa. the container control certificate (signature and data) is stored in the log (portable storage device) if the verification succeeds (signature computed is equal to signature read) (abstract, C2 L8 – C4 L40).

Claim 9

42. Girault, in view of Arnold, discloses the limitations above. Furthermore, Girault discloses the following limitations:

bb. the cryptographic key (verification key) associated to the second entity is used by the electronic seal for decrypting data expected to be received from the second entity (abstract, C2 L8 – C4 L40).

Claim 10

43. Girault, in view of Arnold, discloses the limitations above. Furthermore, Girault discloses the following limitations:

cc. the electronic seal is designed for controlling a lock of the container (building lock) (abstract, C6 L12-18).

Claim 11

44. Girault, in view of Arnold, discloses the limitations above. Furthermore, Girault discloses the following limitations:

dd. an asymmetric cryptographic key system (public key, RSA algorithm) is used for digitally signing the container control certificate (C4 L58 – C5 L22).

Claim 12

45. Girault, in view of Arnold, discloses the limitations above. Furthermore, Girault discloses the following limitations:

ee. a public - private key system (public key, RSA algorithm) is used for digitally signing the container control certificate (C4 L58 – C5 L22).

Claim 13

46. Girault, in view of Arnold, discloses the limitations above. Furthermore, Girault discloses the following limitations:

ff. the container control certificate is signed using a private key (secret key) associated to the first entity (C3 L37-67).

47. It would have been obvious to one of ordinary skill in the art at the time of the invention to substitute secret key for private key because both are kept private, or secret, for security reasons (C3 L61 – C4 L2).

Claims 14, 36

48. Girault, in view of Arnold, discloses the limitations above. Furthermore, Arnold discloses the following limitations:

gg. the container control certificate is signed using a private key (private key) associated to the first entity and the decrypt information stored in the log comprises a public key (public key) of the first entity (C2 L52 - C3 L35).

49. It would have been obvious to one of ordinary skill in the art at the time of the invention to combine Girault with Arnold because 1) a need exists for a system that can provide secured access (Girault C1 L14-65); and 2) a need exists for a secure, but relatively inexpensive cryptographic system (Arnold C1 L15 – C3 L61). A certificate signed using a private key will help ensure secured access.

Claim 15

50. Girault, in view of Arnold, discloses the limitations above. Furthermore, Arnold discloses the following limitations:

hh. the first entity receives the cryptographic key associated to the second entity from a certificate authority (authority T) (C2 L52 - C3 L35).

51. It would have been obvious to one of ordinary skill in the art at the time of the invention to combine Girault with Arnold because 1) a need exists for a system that can provide secured access (Girault C1 L14-65); and 2) a need exists for a secure, but relatively inexpensive cryptographic system (Arnold C1 L15 – C3 L61). Receiving a key from a certificate authority will help ensure secured access.

Claim 16

52. Girault, in view of Arnold, discloses the limitations above. Furthermore, Girault discloses the following limitations:

ii. the container control certificate comprises identification data (data element) for the container (abstract, C2 L8 – C4 L40).

53. It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Girault to show the container control certificate comprises identification data for the container because properly identifying the container will help ensure only authorized users are accessing the container, and that proper time constraints are followed (C2 L8 – C4 L40).

Claims 17, 37

54. Girault, in view of Arnold, discloses the limitations above. Furthermore, Girault discloses the following limitations:

- jj. a location recording device associated to one of the entities transfers location data (geographical zone) to the electronic seal (electronic lock) (C2 L8 – C4 L40, C6 L5-11).

Claim 18

55. Girault, in view of Arnold, discloses the limitations above. Furthermore, Girault discloses the following limitations:

- kk. the location data is digitally signed (signature) by the associated entity (C2 L8 – C4 L40, C6 L5-11).

Claims 19, 38

56. Girault, in view of Arnold, discloses the limitations above. Furthermore, Girault discloses the following limitations:

- ll. the signed location data is stored in a log of the electronic seal (electronic lock) (C2 L8 – C4 L40, C6 L5-11).

Claims 20, 39

57. Girault, in view of Arnold, discloses the limitations above. Furthermore, Girault discloses the following limitations:

- mm. verifying the signed location data by a corresponding function (production algorithm) implemented in the electronic seal (C2 L8 – C4 L40, C6 L5-11).

Claims 21, 40

58. Girault, in view of Arnold, discloses the limitations above. Furthermore, Girault discloses the following limitations:

nn. verifying the digital signature of the location data by applying decrypt information (data element) stored in the log of the electronic seal and delivered to the log by a previous entity of the transportation chain (C2 L8 – C4 L40, C6 L5-11).

Claims 22, 41

59. Girault, in view of Arnold, discloses the limitations above. Furthermore, Girault discloses the following limitations:

oo. the verification is considered to be failed (signature computed is not equal to signature read), if the signed location data cannot be decrypted with decrypt information stored in the log (verification algorithm) (abstract, C2 L8 – C4 L40).

Claims 23, 42

60. Girault, in view of Arnold, discloses the limitations above. Furthermore, Girault discloses the following limitations:

pp. recording the location data in the log (portable storage device) of the electronic seal is subject to a result of the signature verification process (signature computed is equal to signature read) (abstract, C2 L8 – C4 L40).

Claims 24, 43

61. Girault, in view of Arnold, discloses the limitations above. Furthermore, Arnold discloses the following limitations:

qq. the electronic seal transmits container identification information (location information) to a location recording device associated to one of the entities (C24 L40-62, C26 L37-51).

62. It would have been obvious to one of ordinary skill in the art at the time of the invention to combine Girault with Arnold because 1) a need exists for a system that can provide secured access

(Girault C1 L14-65); and 2) a need exists for a secure, but relatively inexpensive cryptographic system (Arnold C1 L15 – C3 L61). A seal with identification information will help ensure secured access.

Claims 25, 44

63. Girault, in view of Arnold, discloses the limitations above. Furthermore, Arnold discloses the following limitations:

rr. the transmitted container identification information is digitally signed (signed copy) by a second entity (C24 L40 - C25 L10).

64. It would have been obvious to one of ordinary skill in the art at the time of the invention to combine Girault with Arnold because 1) a need exists for a system that can provide secured access (Girault C1 L14-65); and 2) a need exists for a secure, but relatively inexpensive cryptographic system (Arnold C1 L15 – C3 L61). Having the identification information digitally signed will help ensure secured access.

Claim 28

65. Girault, in view of Arnold, discloses the limitations above. Furthermore, Arnold discloses the following limitations:

ss. an interface for communicating to a certificate authority (MKS 100) (C12 L65 – C13 L23);
tt. the control unit being designed for requesting the cryptographic key (public signature key) associated to the different entity from the certificate authority (C12 L65 – C13 L23).

66. It would have been obvious to one of ordinary skill in the art at the time of the invention to combine Girault with Arnold because 1) a need exists for a system that can provide secured access (Girault C1 L14-65); and 2) a need exists for a secure, but relatively inexpensive cryptographic system (Arnold C1 L15 – C3 L61). Requesting the key from a certificate authority will help ensure secured access.

Claim 29

67. Girault, in view of Arnold, discloses the limitations above. Furthermore, Arnold discloses the following limitations:

uu. a log for storing a cryptographic key associated to the certificate authority for decrypting information received from the certificate authority via the certificate authority interface (C14 L15-21).

68. It would have been obvious to one of ordinary skill in the art at the time of the invention to combine Girault with Arnold because 1) a need exists for a system that can provide secured access (Girault C1 L14-65); and 2) a need exists for a secure, but relatively inexpensive cryptographic system (Arnold C1 L15 – C3 L61). A log for storing a key will help ensure secured access.

Claim 33

69. See claims 6 and 10 above.

Claim 49

70. Girault, in view of Arnold, discloses the limitations above. Furthermore, Arnold discloses the following limitations:

vv. a certificate authority (authority T) for supporting the computing unit with cryptographic data as needed (C2 L52 - C3 L35).

71. It would have been obvious to one of ordinary skill in the art at the time of the invention to combine Girault with Arnold because 1) a need exists for a system that can provide secured access (Girault C1 L14-65); and 2) a need exists for a secure, but relatively inexpensive cryptographic system (Arnold C1 L15 – C3 L61). A certificate authority for supporting the unit will help ensure secured access.

Examiner's Note

72. In accordance with In re Lee, 277 F.3d 1338, 1344-45, 61 USPQ2d 1430, 1434-35 (Fed. Cir. 2002), Examiner finds that the reference by Menezes et al., "Handbook of Applied Cryptography", CRC Press LLC, 1997, is additional evidence of what is basic knowledge or common sense to one of ordinary

skill in this art. This reference is cited in its entirety. Moreover, because this reference is directed towards beginners (see e.g. "User Level Beginning..."), because of the reference's basic content (which is self-evident upon examination of the reference), and after further review of the entire record including the prior art now of record in conjunction with the factors as discussed in MPEP §2141.03 (where practical), Examiner finds that this reference is primarily directed towards those of low skill in this art. Because this reference is directed towards those of low skill in this art, Examiner finds that one of ordinary skill in this art must, at the very least, be aware of and understand the knowledge and information contained within this reference.

73. In light of Applicants' choice to pursue product claims (27-28 and 30-49), Applicants are reminded that functional recitation(s) using the word and/or phrases "for", "adapted to", or other functional language (e.g. see claim 27 which recites "interface for transferring", "unit designed for assembling"; claim 30 which recites "accessible for entities", "log for recording data", "unit for verifying") have been considered but are given little patentable weight because they fail to add any structural limitations and are thereby regarded as intended use language. To be especially clear, all limitations have been considered. However, a recitation of the intended use of the claimed product must result in a structural difference between the claimed product and the prior art in order to patentably distinguish the claimed product from the prior art. If the prior art structure is capable of performing the intended use, then it reads on the claimed limitation. *In re Casey*, 370 F.2d 576, 152 USPQ 235 (CCPA 1967) ("The manner or method in which such a machine is to be utilized is not germane to the issue of patentability of the machine itself."); *In re Otto*, 136 USPQ 458, 459 (CCPA 1963). See also MPEP §§ 31.06 II (C.), 2114 and 2115. Unless expressly noted otherwise by Examiner, the claim interpretation principles in the paragraph apply to all claims currently pending.

74. Applicants are reminded that optional or conditional elements do not narrow the claims because they can always be omitted. See e.g. MPEP §2106 II C.: "Language that suggests or makes optional but does not require steps to be performed or does not limit a claim to a particular structure does not limit the scope of a claim or claim limitation. [Emphasis in original.]"; and *In re Johnston*, 435 F.3d 1381, 77 USPQ2d 1788, 1790 (Fed. Cir. 2006) ("As a matter of linguistic precision, optional elements do not

narrow the claim because they can always be omitted."). For example, claim 5 states "failed if the signed container control certificate cannot be decrypted."

Claim Interpretation

75. Examiner hereby adopts the following definitions under the broadest reasonable interpretation standard. In accordance with *In re Morris*, 127 F.3d 1048, 1056, 44 USPQ2d 1023, 1029 (Fed. Cir. 1997), Examiner points to these other sources to support his interpretation of the claims.² Additionally, these definitions are only a guide to claim terminology since claim terms must be interpreted in context of the surrounding claim language. Finally, the following list is not intended to be exhaustive in any way:

ww. **interface** "2 Software that enables a program to work with the user (the user interface, which can be a command-line interface, menu-driven, or a graphical user interface), with another program such as the operating system, or with the computer's hardware." Computer Dictionary, 3rd Edition, Microsoft Press, Redmond, WA, 1997.

xx. **log** "1 A record of transactions or activities that take place on a computer system." Computer Dictionary, 3rd Edition, Microsoft Press, Redmond, WA, 1997.

yy. **unit** "(3) A software component that is not subdivided into other components." IEEE Standard Computer Dictionary, The Institute of Electrical and Electronics Engineers, New York, NY, 1990.

Conclusion

76. Any inquiry of a general nature or relating to the status of this application or concerning this communication or earlier communications from the Examiner should be directed to Christina Zelaskiewicz whose telephone number is 571.270.3940. The Examiner can normally be reached on

² While most definitions are cited because these terms are found in the claims, Examiner may have provided additional definition(s) to help interpret words, phrases, or concepts found in the definitions themselves or in the prior art.

Monday-Friday, 9:30am-5:00pm. If attempts to reach the examiner by telephone are unsuccessful, the Examiner's supervisor, Andrew Fischer can be reached at 571.272.6779.

77. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://portal.uspto.gov/external/portal/pair> <<http://pair-direct.uspto.gov>>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866.217.9197 (toll-free).

/Chrystina Zelaskiewicz/
Examiner, Art Unit 3621
July 14, 2009

/ANDREW J. FISCHER/
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